IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 23469 of 2004

Between:

1 Modapuram Bakkaiah, S/o. Late Latchaiah,
Bayyaram Village, Pinapaka Mandal,
Khammam District.
2 Modapuram Satyanarayana, S/o. Late Latchaiah,
Bayyaram Village, Pinapaka Mandal, Khammam District.

..... PETITIONERS

AND

1 The Addl. Agent to Government and Project Officer, ITDA,

Bhadrachalam, Khammam District.
2 The Agent to Govt and District Collector, Khammam, Khammam

District.
3 The Special Dy. Collector, (Tribal Welfare), Paloncha, Khammam

District.
4 The Mandal Revenue Officer, Pinapaka Mandal, Khammam District.
5 Kunja Kannayya, S/o. Muthaiah,
R/o. Kunavaram Vill, Manugur Mandal, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ or order of direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in dismissing the appeal of the petitioners by an order dt.28.8.2004 in I.A.No.63/A/2003 without hearing and without considering the documentary evidence and without giving any valid reasons, as

bad, arbitrary, illegal and violation of principles of natural justice and pass such other and further order or orders.

Counsel for the Petitioner: MR.C.DAMODHAR REDDY

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court at the stage of admission made the following:

HONOURABLE MR.JUSTICE K.C.BHANU

WRIT PETITION NO.23469 OF 2004

ORDER:

The present writ petition is filed by the petitioners to declare the action of the first respondent in dismissing the appeal of the petitioners by an order dated 28.08.2004 in I.A.No.63/A/2003 without hearing and without considering the documentary evidence, as illegal and arbitrary.

2. The learned counsel appearing for the petitioners contended that the appellate Tribunal has not considered the revenue receipts and it also has not given any opportunity to the petitioners to put forward their case and further contended that the appellate authority has not called for the records from the competent authority before passing the impugned order. Therefore, he prays to set aside the impugned order.

3. On the other hand, the learned Government Pleader for Social Welfare appearing for the respondents contended that under Section 6-B of the A.P. Scheduled Areas Land Transfer Regulation, 1959 (for brevity 'the Act'), an alternative remedy of filing a revision before the Government is available to the petitioners and therefore, he prays to dismiss the writ petition.

4. It is well settled that alternative remedy is not a bar for exercising the jurisdiction under Article 226 of the Constitution of India, especially when there is violation of principles of natural justice or when the appellate authority has not taken the evidence into consideration or when the findings are not based upon any evidence at all.

5. With regard to the violation of principles of natural justice, as seen from the impugned proceedings, it is clear that the matter was posted to 24.01.2004. On that day, the Advocate for the petitioners was absent and at the request of the petitioners, the case was called again on 07.08.2004. On that date, the petitioners failed to produce any documents or advance any arguments. Therefore, the order under challenge cannot be said to have been passed without giving any reasonable opportunity of hearing the case of the petitioners. With regard to evidence aspect, as seen from the original order, the petitioners have not filed any documents to prove their case and that is the reason why, the appellate authority also gave a finding that the appellants failed to prove how they came into possession of the land. Therefore, it is not a case of non-consideration of evidence at all.

6. In the light of the above facts and circumstances of the case, I am of the view that the writ petition can be disposed of with a direction to the petitioners.

7. Accordingly, the Writ Petition is disposed of with a direction to the petitioners to file a revision before the Government as provided under Section 6 of the Act. In the circumstances no costs.

16th December, 2004. K.C.BHANU, J

SKM

TO

1 The Addl. Agent to Government and Project Officer, ITDA,

Bhadrachalam, Khammam District.
2 The Agent to Govt. and District Collector, Khammam, Khammam

District.
3 The Special Dy. Collector, (Tribal Welfare), Paloncha, Khammam

District.
4 The Mandal Revenue Officer, Pinapaka Mandal, Khammam District.
5 Two C.Cs. to G.P. for Social Welfare, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

6 Two C.D. Copies.